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# Jury Judges CIA Mail-Spying

By Aric Press

Brooklyn—Twelve average Americans said yesterday that three other average Americans should receive between \$2,500 and \$10,000 because the Central Intelligence Agency violated their rights by opening their Moscow mail.

The special federal jury's advisory verdict to U.S. District Judge Jack B. Weinstein came in the first damages trial against the government stemming from the CIA's 20-year mail-opening project, which ended in 1973. Since the surveillance program was disclosed two years ago, CIA officials have admitted opening and copying more than 200,000 letters Americans sent to, or received from, the Soviet Union.

On Monday Weinstein said he was taking the unusual step of using an advisory jury because the case involved unique issues and he wanted their opinion on what damages if any should be awarded. Yesterday's decision was not binding on Weinstein, who is expected to make his formal ruling this summer after he returns from a two-month teaching assignment in Israel.

Lawyers for the three plaintiffs had expressed fears that the jury, which included three secretaries, several white-collar workers and only one college graduate, was likely to side with the government, which had asked that only nominal damages of \$1

be awarded. However, after seven hours of deliberation, the jury of nine women and three men announced, in effect, that they had accepted the plaintiffs' arguments. Eight jurors recommended a \$5,000 award for each plaintiff, three jurors recommended \$10,000 for each and one juror suggested \$2,500.

The jurors explained their reasoning in response to questions from Weinstein. Edward McGowan, 22, an accountant, told the judge: "Ten thousand dollars is a meaningful figure to show that these rights have been infringed upon. It will show that the American people realize they don't have to stand for the government breaking the law." Mary Marchese, a legal secretary who also argued for \$10,000, explained: "Because they are citizens they were hurt. I would have been hurt also."

Adele Harris, an administrative assistant with an industrial firm, said that she felt originally that \$1 would have been sufficient, but was convinced by other jurors to raise her judgment to \$2,500.

And Catherine Calvano, a secretary, summed up the feelings of the eight jurors who decided on \$5,000 by saying she thought that sum was "meaningful compensation."

During the trial, the three plaintiffs' lawyers had argued that the jury had an

opportunity to "send a message" to the CIA not to tamper with citizens' constitutional rights. After the verdict yesterday, Melvin Wulf, attorney for Minneapolis advertising executive Leonard Avery—who was sent a letter by his son who was studying in Moscow in 1968 that was opened by the CIA—was jubilant. "I really am moved by this verdict," Wulf said. "It is proof of the fact that the U.S. Constitution is a living document and not just a piece of paper."

The only plaintiff present when the jury reported, Mary Rule MacMillen, 26, beamed as they explained their verdict. Later Ms. MacMillen, a Cambridge, Mass., job placement counselor whose personal letter to a Soviet friend was opened two weeks before CIA suspended the project, said: "The fact that my letter was read by anyone but myself and my friend can never be compensated. But this award acts as a symbol." Her friend was identified at the trial only as "a well-known Soviet dissident." The third plaintiff was Amherst College sociology professor Norman Birnbaum, whose 1970 letter to a Russian professor, D.M. Ugrinovitch, was opened.

The plaintiffs had argued that the government had invaded their privacy and had violated the U.S. Constitution by unlawfully searching their letters. Several similar cases are pending around the country.